

Date of Decision: 07.07.2021

...Petitioner

VS.

...Respondent

Present: Mr. Rakesh Gupta, Advocate for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.2

2. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.435 dated 03.06.2020, registered under Sections 186, 279, 307, 337, 353, 302, 325, 326, 34 of IPC, 1860, Sections 3/181, 39/192, 148/196 of Motor Vehicles Act, 1988 and Section 25 (Act No.54) of Arms Act, 1959, at Police Station Model Town, Panipat, District Panipat.

3. Learned counsel contends that the petitioner has been implicated in the instant case solely on the basis of disclosure statement made by co-accused, Sawan i.e. driver of the car, which was being driven rashly and which struck a police constable who eventually succumbed to his injuries. Learned counsel contends that the petitioner is neither named in the FIR nor is there any mention in the FIR with regard to any person other than the driver being present in the car, which was being driven rashly. Learned counsel further contends that even if the disclosure

statement of co-accused, Sawan, driver of the car, is believed to be correct that the petitioner was accompanying him, there is no material in support of there being common intention of the petitioner with co-accused nor is there any material with regard to there being criminal conspiracy between them to commit the offence. Learned counsel further contends that no injury has been attributed to the petitioner and all allegations are against the co-accused, Sawan i.e. driver of the vehicle. Learned counsel further contends that the presence of the petitioner at the spot is doubtful, as HGH Surender nowhere stated in the complaint that anyone else was accompanying the driver of the car, besides co-accused, Shobhit was granted pre-arrest bail by this Court, investigation is complete, application for claiming the benefit of being a juvenile is pending before the competent authority, challan has been presented, petitioner is in custody since 12.06.2020, there is no other case registered against the petitioner and the trial is likely to take considerable period of time to conclude, therefore, no useful purpose would be served by keeping the petitioner in custody, especially on account of circumstances prevailing due to Corona Virus Pandemic.

4. Learned DAG, Haryana, on instructions from ASI, Vinod Kumar, confirms the factual position as noted above.

5. I have considered the submissions of learned counsel for the parties and by taking into account the fact that the complaint does not mention the presence of any other person except the driver of the vehicle, which was involved in the commission of the offence, petitioner has been

implicated in the case solely on the basis of disclosure statement of co-accused i.e. driver of the car, there is no other material to connect the petitioner with the commission of offence, petitioner is in custody since 12.06.2020, challan has been presented though charges are yet to be framed and trial is likely to take considerable period of time to conclude, the petition for regular bail is allowed and the petitioner ordered to be released on regular bail during the pendency of the trial, subject to his furnishing bail / surety bonds to the satisfaction of the learned CJM / Trial Court / Duty Magistrate, concerned, provided he is not required in any other case. The petitioner shall also abide by the conditions contained in Section 437(3) Cr.P.C.

8. However, nothing stated hereinabove shall be taken as an expression of opinion on the merits of the case.

(B.S. Walia)
Judge

07.07.2021.

'Rajesh'

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No